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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

10 PHILIP SMITH,

11 Plaintiff,

12 vs.

13 COUPANG, INC.,

14 Defendant.
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Case No. 2:23-cv-01887-RAJ

**DEFENDANT COUPANG, INC.'S
RESPONSE TO PLAINTIFF'S MOTION
TO SEAL PARAGRAPHS 29, 31, AND 40-
43 OF THE CORRECTED AMENDED
COMPLAINT**

NOTING DATE: April 19, 2024

Defendant Coupang, Inc. (“Defendant” or “Coupang”) hereby respectfully submits this Response to Plaintiff’s Motion to Seal Paragraphs 29, 31, and 40-43 of the Corrected Amended Complaint (Dkt. 36) (“Plaintiff’s Motion”).

ARGUMENT

5 On December 8, 2023, Plaintiff filed a Complaint before this Court. Dkt. 1. Because that
6 Complaint contained allegations referring to communications with, or advice provided by,
7 Defendant's counsel, which were therefore protected by attorney-client privilege, Plaintiff consulted
8 with Defendant's counsel before that filing to determine whether any portion of that Complaint
9 should be filed under seal. As a result of that conference, Plaintiff submitted to this Court an
10 Unopposed Motion to Seal certain paragraphs in that Complaint, which reflected attorney-client
11 privileged information. Dkt. 2. This Court granted that Motion to Seal. Dkt. 11.

12 Defendant then filed a Motion to Dismiss the Complaint. In response, Plaintiff filed an
13 Amended Complaint on February 26, 2024. Dkt. 28. Because that Amended Complaint again
14 contained allegations referring to communications with, or advice provided by, Defendant’s counsel,
15 which were therefore protected by attorney-client privilege, Plaintiff again consulted with
16 Defendant’s counsel before that filing, to determine whether any portion of that Amended Complaint
17 should be filed under seal. As a result of that conference, Plaintiff again submitted to this Court an
18 Unopposed Motion to Seal Amended Complaint, seeking to seal certain paragraphs in that Amended
19 Complaint, which reflected attorney-client privileged information. Dkt. 27. This Court likewise
20 granted that Motion to Seal. Dkt. 29.

21 Defendant then filed a Motion to Dismiss the Amended Complaint. Dkt. 30. On April 5,
22 2024, Plaintiff filed a Motion for Leave to File Corrected Amended Complaint, attaching as Exhibit
23 A the proposed Corrected Amended Complaint, and as Exhibit C a redline of that proposed
24 Corrected Amended Complaint. Dkts. 37, 37-1, 37-3. Recognizing that Exhibits A and B (Dkts.
25 37-1 and 37-3) contained the same attorney-client privileged information that had been contained in
26 the prior Amended Complaint, which had been filed under seal, Plaintiff contemporaneously filed a
27 Motion to Seal those two exhibits. Dkt. 36.

1 Plaintiff did not consult with Defendant prior to filing the Motion to Seal on April 5 (Dkt.
 2 36), and therefore did not caption or docket that Motion as “unopposed.” However, Defendant has
 3 since conferred with Plaintiff’s counsel, and confirmed that Plaintiff’s Motion to Seal is indeed
 4 unopposed.

5 Further, paragraphs 29, 31, and 40-43 of Plaintiff’s proposed Corrected Amended Complaint
 6 (Exhibit A), and the redline of that document (Exhibit B), reflect alleged communications with
 7 Defendant’s counsel, and/or alleged advice received by that counsel. Accordingly, those allegations
 8 are protected by attorney-client privilege, and should remain under seal. *See Hason v. Wells Fargo*
 9 *Home Tg., Inc.*, 2013 WL 5674997, at *3-4 (W.D. Wash. Oct. 17, 2013) (sealing as attorney-client
 10 privilege doctrine communications referenced in declaration “between counsel for the corporation
 11 and the corporation’s employees”); *Ashby v. United States*, 2019 WL 1354157, at *1 (W.D. Wash.
 12 Mar. 26, 2019) (sealing declaration providing “detailed account of attorney-client
 13 communications”); *Creative Tent Int’l Inc. v. Kramer*, 2015 WL 4638320, at *3 (D. Ariz. Aug. 4,
 14 2015) (sealing answer and counterclaim containing “privileged attorney-client communications”).

15 **CONCLUSION**

16 For the reasons set forth herein, Plaintiff’s proposed Corrected Amended Complaint, and the
 17 redline of that document, filed at Dkts. 37-1 and 37-3, should be kept under seal.

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1 DATED: April 15, 2024

QUINN EMANUEL URQUHART & SULLIVAN, LLP

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3 */s/ Alicia Cobb*
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23 *Attorneys for Defendant Coupang, Inc.*

1 **LCR 7 WORD COUNT CERTIFICATION**

2 I certify that, in compliance with the 4,200 word limit set forth in Local Civil Rule 7(e)(4),
3 this memorandum contains 539 words.

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5 DATED: April 15, 2024

6 */s/ Alicia Cobb*
7 Alicia Cobb, WSBA #48685

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CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.

DATED: April 15, 2024

/s/ Alicia Cobb
Alicia Cobb, WSBA #48685